

1906-057 Chancery Causes: John R. Robbins vs. Jasper M. Robbins &
Lee Co

Bailey, Noel, Pennington

1 Plat

CA-Debt
T-Property

To the Honorable W.T. Miller, Judge of the circuit court for Lee County:-

Humbly complaining your orator John R. Robbins would respectfully show unto your honor that on the 20th day of February 1897 he recovered before J.C. Noel a justice of the peace of said County a judgement against J.N. Robbins for the sum of \$79.50 with interest thereon from the 1st day of November 1895 till paid and ^{Costs} \$1.70 which judgement is here filed marked exhibit "1" and prayed to be read as a part of this bill: that no part of said judgement has ever been paid: that said judgement is duly docketed in the county court clerk's office of Lee County: and that this is the only judgement against said J.N. Robbins.

Your orator will further show unto your honor that said J.N. Robbins some two or three years ago bought from Carr Bailley a tract of land lying and being in this County in the Crab Orchard Country and said to contain some 120 acres: that he has not paid said Bailley the whole of the purchase money on the same but he is informed he owes on the same about \$157.57; ^{as of Oct. 28th 1897} that said Bailley has made no deed to said land to said Robbins: that the said Robbins is in possession of the land and would be entitled to a deed had he the residue due on the purchase price of the same paid: that said Bailley has the first lien on said land ^{for said amount} and your orator the second by reason of his said judgement: that said land after the payment of said balance due on ~~said land~~ the same will not rent for a sum sufficient to pay your orators said judgement in five years. Your orator will further show that owing to no deed having been made by said Bailley to said J.N. Robbins and not being able to ascertain otherwise he is unable to give ^{an} exact description of said land with meets and bounds: he has asked the said Bailley for a description of the same but he has failed to furnish it.

In consideration whereof your orator prays that the said J.N. Robbins and Carr Bailley be made parties defendants to this bill of complaint and required to answer the same but they need not do so on oath as that is expressly waived: that they ^{and each} or either of them be especially required to answer and give the exact amount due to said Bailley on the purchase price of said land when the same became due and from what date it bears interest: that they ^{and each} or either of them be required in their answer to give a full

complete and accurate description of said land, by giving its location, how bounded and ^{much} how of the same; and that your orator be decreed a lien on said land by reason of his said judgement, and enough of the same be sold to pay said Bailley's debt and said judgement and the costs of this suit. And that all other, further and general relief be granted your orator that the nature of his cause may require. And he will ever pray etc. May process issue &c.

Jimmington Bros... P.O.

Virginia---Lee County, To-Wit:

To J. J. Stapleton, Constable of said County.

I hereby command you to summon,...

J. N. Robbins

If to be found in your District to appear at my office in said county, on

the 20th day of January 1897 before me or such other Justice of said County,

as may be there to try this warrant, to answer complaint of...

Robbins

John R.

and upon claim for money not exceeding \$100, exclusive of interest, to-wit: For the sum of \$79.50

due by note winning the Hamstead law, and then and there return this warrant.

Given under my hand the 20th day of Feb 1897

J. R. Robbins

J. B. Noel

J. P.

J. N. Robbins

On the 20 day of Feb 1897

(In Debt)

At Pennington in said County,

JUDGMENT, That the Plaintiff recover of the Defendant \$79.50 with interest thereon from the

12th day of Nov 1895, until paid, and \$7.50 for costs.

J. B. Noel

J. P.

VIRGINIA—Lee County, To-wit: To J. J. Stapleton, Constable of said County.

I command you in the name of the Commonwealth of Virginia, that of the goods and chattles of

J. N. Robbins

, in your county, you cause to be made the sum of \$79.50

with interest thereon from the 5th day of Nov 1895, till paid, which

J. R. Robbins

has recovered before me

warrant in debt, and also the sum of \$7.50 which were adjudged to

he said J. R. Robbins for costs in prosecuting said warren.

Given under my hand the 22 day of Feb 1897.

J. B. Noel

J. P.

J. R. Robbins

vs. } Warrant

J. N. Robbins

Executed the 9th
day of Feb-1887

by J. N. Robbins

by J. J. Stapleton

and C. L. C.

James Smyth

for the Defendant

"Abilisk 1"

John R. Robbins
vs. } Bice

J. R. Robbins et al
1897 2nd Sept rules & pa executed
+ D. M.
" 1st Oct rules & D. M. Confd
+ Cause set for hearing

Plffs Costs Nov 7 1898

Clerk	6.83
Tax	4.50
Shelf	2.50
attly	15.00
J.P.	1.50
Prints	.50
Estimated	5.00

\$32.83

To the Hon. W. T. Miller Judge of the
Circuit Court of Lee County Va.

The demurrer and deperate
answer of J. M. Robins to a bill
filed in this Hon. Court against
himself by J. R. Robins

Respondent says
the pless Bill is not sufficient in
law and of this he prays judgement.

But if required further
answering he says, it is not true
that the pless obtained a judgement
against him, for \$79.50 on a note
claiming the Homestead, or any other
note. That allegation of the pless bill
and pretended judgement is false.

There is not nor never was any
such note. This respondent ad-
mits that he owed J. R. Robins an
open account for the sum of \$79.50
and that he expected to pay it as
agreed between them, but at the
time said warrant was served on
him, the debt was not due, and
as he did not owe any such
note, in his ignorance of law, he
thought no judgement could be ren-
dered against him, that would be
valid unless some proof was made
that there was such note or debt.
None such was made, and the

Judgement filed against him was rendered. Your respondent is ignorant of legal proceeding and did not learn until it was too late, that his proper remedy was by appeal.

He therefore alleges that said judgement was rendered against him without any proof, that there ever was a note, or that it waived the Homestead and was lost or mislaid. He therefore alleges that it was rendered, by the justice well knowing there was no such note or proof of its loss; and that it was so rendered against this respondent in fraud, to deprive him of his legal defense thereto; and he is advised if it was so fraudulently rendered, with the full knowledge of said justice it is void; as fraud vitiates everything.

This respondent alleges that, he is under the law, as he is advised entitled to the Homestead laws of Virginia as against said debt, and that he will avail himself of its provisions when proof of the character of said debt is fully made.

1 It is not true however that his
2 lands will not rent for a
3 sufficiency to pay said debt and
4 Costs in five years, upon the
5 Contrary it will do so.

7 And having now fully answered
8 he prays to be dismissed
9 with his Costs.

11 Prudence & Service.

13 This answer is excepted to for the following reasons:

- 15 (1) Because it is not complete and full;
16 in this: it fails to furnish a description
17 of the land in the ^{plea} mentioned, which
18 is called & prayed for
- 19 (2) It seeks or attempts to allege fraud
20 in the procurement of your complete
21 judgment, without averring or attempting
22 to connect your complete with his alleged
23 fraud.
- 24 (3) Because it seeks to attack his judgment
25 by alleging in effect that Justice
26 Rock erred in giving the judgment;
27 if judgment was erroneous (which your
28 complete denies) the remedy was by
29 appeal, and his ignorance of law,
30 does not help him, because it is

presumed in law that every man must
know the law.

(4) And for various other reasons which
will be pointed out at bar.

J. R. Robbins by
Counsel.

J. R. Robbins

advs answer

J. R. Robbins

Filed in open Court and
they leave there of 8307
the 4th 1897

A. B. Munnery clerk

John R. Robbins Compt
vs J. J. Channing
Jasper W. Robbins et al vs
On motion of the Plaintiff
this cause is stricken from
the docket without prejudice.
Done and with leave to
reinstatement on proper notice
by any one in interest.

John R. Robbins

vs. de Chauncy

Jasper N. Robbins

Entered in C.B.

8, page 201-

Enter this

Sept 18th 1906

J. A. W. Shuman

John R. Robbins Compt.

vs.

J. N. Robbins Deft.

} In Chancery

This cause came on again this day to be further heard upon the bill of the Compt., and exhibits filed ~~therewith~~ ^{and the depositions of witnesses} the answer of said J. N. Robbins, and was argued by counsel: On consideration of all which and for reasons appearing to Court, it is adjudged, ordered and decreed that Carr Bailly recover from said J. N. Robbins the sum of \$157.57 with interest thereon from Oct., 28th 1897 till paid which sum is a vendors lien on the land in bill mentioned; and that said John R. Robbins recover free from the Homestead law the sum of \$81.20 with interest ~~thereon~~ on \$79.50 a part thereof from Nov. 1st 1895 till paid and the costs of this suit. And it is further adjudged, ordered and decreed that if said recoveries are not paid within 30 days from this date, then

E. H. Pennington, who is hereby appointed a Special Court. for the purpose will after advertising the time, terms and place of sale for 30 days by written or printed notices posted at the front door of the Court-house and in the neighborhood of said land, at the front-door of the Court-house ^{of said County}, on some Court day, will offer the land in the bill and proceedings mentioned, or so much thereof as may be necessary to pay said recoveries, for sale at public auction to the highest and best bidder, on a credit of One and two years time except a sum sufficient to pay the costs of this suit and commissions of sale which he will require to be paid down; and for the deferred payments he will take bonds payable to himself as such Court. bearing interest from date of sale and with good personal security; and he will

report his action to Court. But
before undertaking his duties
hereunder, said Pennington
will execute bond before the
~~clerk~~ clerk of this Court in the
penalty of \$300⁰⁰ conditioned
as the law requires in such
cases, And this cause is con-
tinued.

J. R. Robbins
vs J. N. Robbins
Eu. C. B. 6/2789

Enter This
Nov. 14 1898.
N. M.

Virginia

At a Circuit Court Continued and held for
Lee County at the Court-house thereof on Mon-
day the 14th day of November 1898,

John R. Robbins Plaintiff

vs

J. N. Robbins Defendant

In Chancery

This Cause came on again this day to
be further heard upon the bill of the Complain-
ant and exhibits filed therewith the answer
of the said J. N. Robbins and the depositions
of witnesses, and was argued by Counsel.
On Consideration of all which and for reasons
appearing to the Court it is adjudged ordered
and decreed that Barr Bailey recover from said
J. N. Robbins the Sum of \$157.51 with interest
thereon from October 28th 1897, until payment
and that John R. Robbins recover free from
the homestead law from the defendant the
Sum of \$81.20 with interest on \$79.50 a part
thereof from Nov 1st 1898, until payment
and the Costs of this Suit, and it is further
adjudged and decreed that if said recoveries
are not paid within 30 days from this date
then E. W. Pennington who is hereby appointed
a Special Commissioner for the purpose
will after advertising the time, terms and place
of Sale for 30 days by written or printed

Notices posted at the front door of the Court house
and in the neighborhood of said land at the
front door of the Court-house on some Court
day offer the land in the bill and proceedings
mentioned or so much thereof as may be nec-
essary to pay said recoveries, for sale at
public auction to the highest bidder on a credit
of one and two years time except a sum
sufficient to pay the costs of this suit and com-
missions of sale which he will require to be
paid down and for the deferred payments he
will take bonds payable to himself as Commis-
sioner bearing interest from date of sale
and with good personal security, and he
will report his action to Court, But before
undertaking his duties hereunder said Penning-
ton will execute bond before the Clerk of this
Court in the penalty of \$300.00 Conditioned as
the law requires in such cases, And the
Cause is Continued

A Copy

Teste A. B. Munsey Clerk

John R Robbins
vs } Copy of Decree
J. M. Robbins

Copy for
E. W. Pennington

C 78

Executed Dec 19th
1898 By delivering
a true copy of the
within Decree to
E. W. Pennington in
Lee County Va.
W. P. Weston S. L. C.

John R. Robbins

vs

In Chancery.

J. N. Robbins, et al.

On motion of the defendant ~~who~~ suggests that the plaintiff is a non resident of this Commonwealth, ~~xxxxx~~ and asks that security for costs be given, it is ordered that the plaintiff execute before the Clerk of this Court a bond in the penalty of fifty dollars \$ (50.00) with good security, conditioned to pay such costs as may hereafter be decreed against him. And on the further motion of the defendant lief is granted him to file his answer, and the same is with exceptions *thru*ts, which are not paid on accordingly filed. And the Cause is continued.

J. R. Robbins
of Decree

J. R. Robbins
Nov. 7 1897

Eu. C. O. B. No. 6 p 50 +
49

Enter this
Nov. 5 1897
W. J. W.

To J. N. Robbins & Orr Bailey:-

You are hereby notified, that on the 3rd day of February 1898 at the law office of E. H. Pennington in the town of Pennington Gap, Va., between the hours of 9 A. M. and 4 P. M. of that day, I shall proceed to take the depositions of J. C. Noel and others to be read as evidence in my behalf, in a certain suit in equity, depending in the Circuit Court for the County of Lee, wherein I am plaintiff and you are defendants; and if from any cause, the taking of said depositions be not commenced, or if commenced be not completed on that day, the taking thereof will be adjourned from day to day and from time to time and place to place until the same shall be concluded. This January, 10th 1898.

Respectfully,

John R. Robbins

By Pennington & Bros.

P. G.

J. R. Robbins

vs } Notice To Take
Deposition

J. R. Robbins shal

Executed in part
on January 12th 1898,
by delivering a true
copy of the within
notice to Carr-
Bailey

E. S. M. Weston, D. S.

for W. P. Weston, S. L. C.

Further Executed
On January 20th 1898
by delivering a true
copy of the within
notice to J. R. Robbins
E. S. Stapleton D. S.
for W. P. Weston

S. L. C.

John S. Weston
A. J. Payne

The depositions of J. C. Noel and
E. W. Pennington taken before
me J. S. Garrison, a Justice of
the Peace in and for the County
of Lee and State of Virginia
pursuant to notice hereto annexed
at the law office of E. W. Pennington
in the town of Pennington Gap, Va.
on the 3rd day of February, 1898,
between the hours of 9 a.m. and
4 p.m. of that day to be read
as evidence in behalf of John
R. Robbins in a certain suit
in Chancery depending in the
Circuit Court for the County,
Va. wherein said John R.
Robbins is complainant and
J. M. Robbins and Carr Bailey
are defendants.

Present E. W. Pennington atty. for Compl.

No witnesses appearing, the taking
of these depositions is continued
until Saturday, February, 5th 1898,
at the same place, and between the
same hours.

J. S. Garrison J. S.

Met pursuant to adjournment
at the law office of E. W. Penning-
ton in the town of Pennington Gap,
on February, 5th 1898, between
the hours of 9 a.m. and 4 p.m.
of that day. This Feb. 5th 1898

J. S. Garrison J. P.
Present E. W. Pennington atty for complt

J. C. Noel a witness of lawful age
after being duly sworn deposes
as follows:

Ques. 1 Give your name, age, residence
and occupation.

Ans. My name is John C. Noel, my age is
38 years old my residence is Pennington
Gap Va. my occupation is attorney at law
but presently engaged in teaching school.

Ques. 2 Are you acquainted with
the defendants in this cause?

Ans. I am.

Ques. 3 Please examine "Exhibit 1"
filed in Complainant's bill,
and tell what you know

~~was~~ about it?

Ans

Exhibit one appears to be a warrant, judgment, and execution of John R. Robbins against J. N. Robbins. I issued said warrant tried the case and gave judgment and issued the execution; at the time I issued said warrant and gave said judgment and issued said execution I was one of the justices of Lee County Virginia. My recollection is that he J. N. Robbins was in town on the day said judgment was given, and that he had a conversation with me about the case, He admitted the justness of the debt and the signing of the note, ^{on which said judgment was rendered.} but wanted to plead the promise of J. R. Robbins to him, that if he the said J. N. Robbins would sign the note that he the said J. R. Robbins would not bring suit upon the note. He said that he had a letter from J. R. Robbins in which this promise was made. I am satisfied that ^{he} made no other defense to the warrant. But afterwards asked a new trial on the case but same was not granted.

Ques. 4. Did you see the note on which said judgment was

rendered? If so, state where
the note is, ^{now} if you know.

Ans. I have seen the note. It was in my
possession the last time I saw it. It is
either at my house if not destroyed, or
lost with a pocket-book of mine containing
~~another~~ a number of other papers. I am
satisfied the latter is the case but do
not know. I have searched for it
but have not been able to find it.

Ques. 5. Do you remember whether
or not said note waived
the Homestead law? Tell what
you may know or remember
about this if any thing.

Ans. My recollection is that it did, though
I could ^{not} say positively about it. On the
day that ^{on the day judgment was rendered} rendered said judgment, I
told J. R. Robbins that he had the right
to appeal from my judgment.
And further this deponent regrettes
not.

Witness
claim day
504

J. C. Noel.

E. H. Puntington another witness
of lawful age after being
duly sworn deposes as follows:
I was attorney for J. R. Robbins

He placed the note in my hands
 for collection, on which said
 J. C. 'well a justice gave
 judgment. I saw the note
 repeatedly. Before I sent
 out the warrant I talked to
 J. N. Robbins about it. He ad-
 mitted to me signing the note
 and that it was justly due
 J. R. Robbins. He told me
 since the judgment was
 rendered he owed the money.
 The note was due according
 to its face on Nov. 1st, 1895 and
 was for \$79.50. My recollec-
 tion is that the note was
 the benefit of the Homestead
 Land, and I am pretty positive
 of this fact. The note was dated
 some time before it was due.
 I think it was some time in
 the fall of 1896 I sent out
 a warrant on this note, and J. N.
 Robbins came to me & said if he
 had an agreement with J. R.
 Robbins not to sue him at that
 time; so I agreed with him to
 dismiss the warrant & wait

on until January, 1st 1897, and
he agreed with me to pay off
the note by that time. But he
did not pay off the note; so
I sued out the warrant on
which the judgment was rendered
on which this suit is brought.
Neither I nor J. R. Robbins were
present at the time said judge-
ment was rendered. Before
the day of trial, I knew I could
not be at the trial and before
going away, ^{I think} left the note on
which I had sued out the war-
rant with J. C. Noel; and that
is the last I have seen of the
note.

And further this deponent saith
not.
E. H. Pennington

Virginia

Lee County, to-wit:.

J. J. S. Garrison, a justice of
the peace for the county of Lee
in said State, do hereby certify
that the foregoing depositions of
J. C. Noel and E. H. Pennington

were duly taken, sworn to and
subscribed before me, at the time
and place, and for the purpose in
the caption mentioned.

Given under my hand this 5th day
of February, 1898.

J. S. Garrison. J. P.

J. R. Robbins
no } deposition

J. N. Robbins et al

Received by mail in
good condition and filed
February the 5th 1898
A. B. Munsey Clk.

Price of costs
J. C. Hall wit. .50¢
J. S. Garison J. P. 1.50
Sherriff 1.00

\$ 3.00

Judge E.W.Pennington;

Dear Sir:

In reply to your favor I find a survey made for ex Judge Baily, of 120 acres, which I suppose is the survey in question; and enclose a copy thereof.

He made another and assigned one half to me, I suppose it is not the one as it contained 220A.

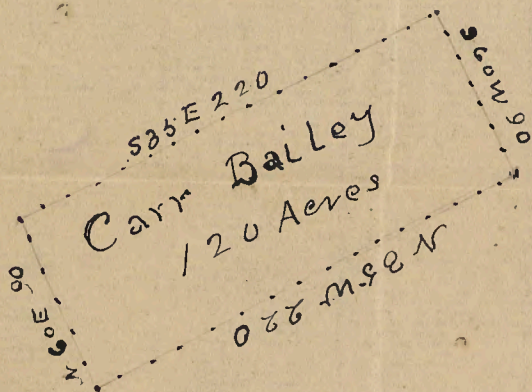
Respect Yours L. M. Carmical

August 22nd 1893.

By virtue of Virginia land office Treasury Warrant No. 30783 duplicate dated 17 July 1891. I have surveyed for Carr Baily 120 acres of land in Lee County on the north side of Stone Mountain and on the North Fork of Howells river.

Beginning at two small sourwoods a black gum & chestnut oak corner to Thomas Robbins land and on the McCredie line and with a line of Robbins land N60E90 poles crossing a branch at 16 poles to a stake corner to a tract of land deeded by said Baily to R.A. Ayres, and with a line of same S35E 220 poles to 3 chestnut oaks, a black oak and 3 pines on the top of said mountain, and with the top of the same as it meanders S60W 90 poles to a stake on the said McCredie line and with the same N35W 220 poles to the beginning.

L.M.Carmical S.L.C.



I certify that the above is a correct copy.
This July 28th. 1898.

L. M. Carmical S.L.C.

Fee 50cts,

Quincy Va. July 22/88
Judge E. W. Pennington

Dear Sir

Yours of recent date to hand. In reply I will say that I can not give all the information you ask for, but perhaps I can give enough for you to get the remainder without much trouble. The amount due father from Robbins is the amount of a note given on the 28 of Oct. 1895 for \$151.51. He had paid some on the old note and gave a new note for the balance. I read a letter from the Register of the Land Office, in which he states, that there are two surveys on file there one for 120 acres and one for 220 acres, I am sure

that the 220 acre tract is not
the one sold to J. N. Robbins, as
L. M. Carmichael is a partner in
this tract, so the 120 acre tract
must be the one. The grant is not
yet issued. You can find the
courses on the survey ~~book~~ book.
Father's memory is so bad
that I can get no accurate in-
formation from him. I suppose
you can get the desired information
from Carmichael, if ~~not~~ from
the Land office

Yours Very truly
C. D. Bailey

LAND SALE!

John R. Robbins

VS

J. N. Robbins et al

IN CHANCERY.

To carry out the decree entered in the above styled pending cause, on the 14 day of November 1898, now in the Circuit Court of Lee County, I will proceed at the front door of Lee courthouse on the 16th day of January 1899 and at public out-cry, to the highest bidder, to sell the following described property, to-wit:

The tract of land on the north side of the Stone Mountain, and being the same land which said J. N. Robbins bought from Carr Bailey and said to contain 120 acres. But as to the quantity and title of said land the purchaser thereof will take it at his own risk.

or enough thereof to pay \$ 260⁰⁰ and the costs of this suit and the commissions of sale. upon the following terms, to wit: Enough cash to pay cost and commission, and the remainder in two equal installments due in One and two years from the date of sale. The purchaser will be required to execute bonds bearing interest from the date of sale with good personal security.

G. H. Huntington

Special Commissioner.

This 1 day of Dec 1898.

Know all Men by these Presents, That we E. M. Pennington and
R. L. Pennington

are held and firmly bound unto the Commonwealth of Virginia, in the sum of \$300.00
Three hundred dollars, to payment whereof, well and truly to be made to
 the said Commonwealth of Virginia, we bind ourselves and each of us, our and each of our heirs,
 executors, and administrators, jointly and severally, firmly by these presents, hereby waiving the
 benefit of our homestead exemptions as to this obligation, and any claim, right, or privilege to
 discharge any liability arising under this bond, or by virtue of said office or trust, in any cur-
 rency, funds, counter claims or offsets other than legal-tender currency of the United States.

Sealed with our seals, and dated this 30th day of November
 one thousand eight hundred and Ninety eight.

THE CONDITION OF THE ABOVE OBLIGATION IS SUCH, That if the above bound E. M.
Pennington
 shall faithfully perform the duties of his office or trust, as Commissioner

under a decree of the Circuit Court of the County of Lee, pronounced on the 14th day
 of November, 1898, in the suit therein depending under the name and style
 of John R. Robbins against J. M. Robbins

then this obligation to be void, otherwise to remain in full force and virtue.

Signed, sealed and acknowledged in the
 presence of

A Copy

Teste: A. B. Munsey Clerk

[SEAL.]

Robt L Pennington [SEAL]

[SEAL.]

In the Clerk's Office of the Circuit Court of the County of Lee.

This day _____
 suret on the above bond, made oath before me A. B. MUNSEY, Clerk of the Circuit Court
 of the County of Lee, that _____ estate after the payment of all _____ just
 debts, and those for which _____ bound as securit for others, and expect to
 have to pay _____ worth the sum of _____
 _____ dollars.

Given under my hand this _____ day of _____ 189 .

Teste: _____ Clerk

John R Robbins
vs

John Robbins
Copy of
to { COMMISSIONER
BOND.

Commonwealth.

Southwest Virginian, {
Jonesville, Va. }

The Commonwealth of Virginia,

To the Sheriff of the County of Lee Greeting:

We command you to summon

*J. R. Robbins and
Larr Bailey*

to appear at the Clerk's office of our Circuit Court of the County of Lee at the court-house thereof, at the
Rules to be holden for said court, on the *3rd* Monday in *September*, 189*7*, to answer
a bill in Chancery, exhibited against *them* in our court by *John*
R. Robbins

And have then there this writ.

Witness, A. B. MUNSEY, Clerk of our said court, at the court-house, the *18th* day of

August 189*7*, and in the 12*2nd* year of the Commonwealth.

A copy—Teste:

A. B. Munsey Clerk.
Clerk.

John R Robbins

vs. { SUBPOENA
IN CHANCERY.

J. R. Robbins et al

P. Brog P. Q.

TO 2nd Sept Rul & S

CIRCUIT COUR:

Executed within
subpoena in part
on Sept 4 "1897. by
delivering a true
copy hereof to the
within named Carr
Bailey.

Wm. M. Weston, D.S.
for H. P. Weston, S.L.C.
Further executed on
17th day of Sept. 1897.
by delivering a true
copy hereof to J. N.
Robbins.

E. A. Stapleton, D.S.
for H. P. Weston, S.L.C.